

determination about whether you qualify for a thirty-or-fewer borrowers appeal. If we determine that you qualify, we notify you of that determination at the same time that we notify you of your official cohort default rate.

(2) If you disagree with our initial determination, you must send us your thirty-or-fewer borrowers appeal, including all supporting documentation, within 30 days after you receive the notice of your loss of eligibility.

(c) *Determination.* You do not lose eligibility under § 668.187 if we determine that you meet the requirements for a thirty-or-fewer borrowers appeal.

(Approved by the Office of Management and Budget under control number 1845-0022)

(Authority: 20 U.S.C. 1082, 1085, 1094, 1099c)

§ 668.198 Relief from the consequences of cohort default rates for special institutions.

(a) *Eligibility.* You are only eligible for relief from the consequences of cohort default rates under this section if you are a—

(1) Historically black college or university as defined in section 322(2) of the HEA;

(2) Tribally controlled community college as defined in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

(3) Navajo community college under the Navajo Community College Act.

(b) *Applicability of requirements.* We may determine that the loss of eligibility provisions in § 668.187 and the prohibition against full certification in § 668.16(m) do not apply to you for each 1-year period beginning on July 1 of 1999 through 2003, if you meet the requirements in paragraph (a) of this section and you send us—

(1) By July 1 of the first 1-year period that begins after you receive our notice of a loss of eligibility under § 668.187—

(i) A default management plan; and

(ii) A certification that you have engaged an independent third party, as described in this section; and

(2) By July 1 of each subsequent 1-year period—

(i) Evidence that you have implemented your default management plan during the preceding 1-year period;

(ii) Evidence that you have made substantial improvement in the preceding

1-year period in your cohort default rate; and

(iii) A certification that you continue to engage an independent third party, as described in this section.

(c) *Default management plan.* (1) Your default management plan must provide reasonable assurance that you will, no later than July 1, 2004, have a cohort default rate that is less than 25 percent. Measures that you must take to provide this assurance include but are not limited to—

(i) Establishing a default management team by engaging your chief executive officer and relevant senior executive officials and enlisting the support of representatives from offices other than the financial aid office;

(ii) Identifying and allocating the personnel, administrative, and financial resources appropriate to implement the default management plan;

(iii) Defining the roles and responsibilities of the independent third party;

(iv) Defining evaluation methods and establishing a data collection system for measuring and verifying relevant default management statistics, including a statistical analysis of the borrowers who default on their loans;

(v) Establishing annual targets for reductions in your cohort default rate; and

(vi) Establishing a process to ensure the accuracy of your cohort default rate.

(2) We will determine whether your default management plan is acceptable, after considering your history, resources, dollars in default, and targets for default reduction in making this determination.

(3) If we determine that your proposed default management plan is unacceptable, you must consult with us to develop a revised plan and submit the revised plan to us within 30 days after you receive our notice that your proposed plan is unacceptable.

(4) If we determine, based on the evidence you submit under paragraph (b)(2) of this section, that your default management plan is no longer acceptable, you must develop a revised plan in consultation with us and submit the revised plan to us within 60 days after

you receive our notice that your plan is no longer acceptable.

(5) A sample default management plan is provided in appendix B to this subpart. The sample is included to illustrate components of an acceptable default management plan. Since institutions' family income profiles, student borrowing patterns, histories, resources, dollars in default, and targets for default reduction are different, you must consider your own, individual circumstances in developing and submitting your plan.

(d) *Independent third party.* (1) An independent third party may be any individual or entity that—

(i) Provides technical assistance in developing and implementing your default management plan; and

(ii) Is not substantially controlled by a person who also exercises substantial control over your institution.

(2) An independent third party need not be paid by you for its services.

(3) The services of a lender, guaranty agency, or secondary market as an independent third party under this section are not considered to be inducements under 34 CFR 682.200 or 682.401(e).

(e) *Substantial improvement.* (1) For the purposes of this section, your substantial improvement is determined based on—

(i) A reduction in your most recent draft or official cohort default rate;

(ii) An increase in the percentage of delinquent borrowers who avoid default by using deferments, forbearances, and job placement assistance;

(iii) An increase in the academic persistence of student borrowers;

(iv) An increase in the percentage of students pursuing graduate or professional study;

(v) An increase in the percentage of borrowers for whom a current address is known;

(vi) An increase in the percentage of delinquent borrowers that you contacted;

(vii) The implementation of alternative financial aid award policies and development of financial resources that reduce the need for student borrowing; or (viii) An increase in the percentage of accurate and timely enroll-

ment status changes that you submitted to the National Student Loan Data System (NSLDS) on the Student Status Confirmation Report (SSCR).

(2) When making a determination of your substantial improvement, we consider your performance in light of—

(i) Your history, resources, dollars in default, and targets for default reduction;

(ii) Your level of effort in meeting the terms of your approved default management plan during the previous 1-year period; and

(iii) Any other mitigating circumstance at your institution during the 1-year period.

(f) *Determination.* (1) If we determine that you are in compliance with this section, the provisions of §§668.187 and 668.16(m) do not apply to you for that 1-year period, beginning on July 1 of 1999 through 2003.

(2) If we determine that you are not in compliance with this section, you are subject to the provisions of §§668.187 and 668.16(m). You lose your eligibility to participate in the FFEL, Direct Loan, and Federal Pell Grant programs on the date you receive our notice of the determination.

(Approved by the Office of Management and Budget under control number 1845–0022)

(Authority: 20 U.S.C. 1082, 1085, 1094, 1099c)

[65 FR 65638, Nov. 1, 2000, as amended at 69 FR 12276, Mar. 16, 2004]

APPENDIX A TO SUBPART M OF PART 668—SUMMARIES OF ELIGIBILITY AND SUBMISSION REQUIREMENTS FOR CHALLENGES, ADJUSTMENTS, AND APPEALS

1. Summary of Submission Eligibility

Some types of appeals may be submitted only if you are subject to a loss of eligibility under §668.187 or to provisional certification under §668.16(m). These types of appeals are identified in the following table. Submission deadlines are described in the paragraphs and sections that are cited in the table. For example, although you may submit an uncorrected data adjustment, new data adjustment, or loan servicing appeal if you are subject to provisional certification, the deadlines for those submissions are based on the date you receive your cohort default rate, not the date you receive the notice of your provisional certification.